

DIVISION 2. PURCHASING*

***Cross reference(s)**--Change orders and additions on existing contracts, § 2-127; conspiring to produce identical bids prohibited, § 2-154.

State law reference(s)--Consultants' Competitive Negotiation Act, F.S. § 287.055.

Sec. 2-171. Purpose.

For the city to function well, it is necessary that commodities and contractual services of suitable standards and in sufficient quantities be available as needed and that such items be purchased at the best prices available, consistent with city standards of service and quality. When purchasing commodities and contractual services, the city will not only attempt to follow sound and prudent business practices, but will also seek to promote the full and equitable economic participation of all segments of the community. With these objectives in mind, the city will use its best efforts to ensure that minority-owned and women-owned business enterprises have an equitable opportunity to participate in the procurement system. It is, therefore, the purpose of this division to provide for the fair and equitable treatment of all persons involved in public purchasing by the city, to maximize the purchasing value of public funds in procurement, and to provide safeguards for maintaining a procurement system of quality and integrity.

(Code 1953, § 2-40.1; Ord. No. C-84-16, § 2, 3-7-84; Ord. No. C-86-69, § 1, 9-16-86)

Sec. 2-172. Applicability.

This division applies to contracts for the procurement of supplies and services entered into by this city and shall apply to every expenditure of public funds by a public agency for public purchasing irrespective of its source. When the procurement shall be conducted in accordance with any applicable mandatory federal laws or regulations which are not reflected in this division, nothing in this division shall prevent the city from complying with the terms and conditions of any grant, gift or bequest which are otherwise consistent with law.

(Code 1953, § 2-40.2; Ord. No. C-84-16, § 2, 3-7-84)

Sec. 2-173. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Best interest of the city means a judgmental assessment of what will result in a maximum benefit being conferred upon the city.

Brand name or equal specification means a specification limited to one (1) or more items by manufacturers' names or catalogue numbers to describe the standard of quality, performance, and other salient characteristics needed to meet the city's requirements and which provides for the submission of equivalent products.

Contractual services means and includes, but shall not be limited to, all gas, water, electric light and power service; towel and cleaning service; and the purchase, rental, repair or maintenance of equipment, supplies and machinery and other city-owned personal property. The term shall not include professional or other contractual services which are in their nature unique and not subject to competition and insurance and such insurance-related services as consulting, self-funding and claims administration.

Invitation for bids means all documents, whether attached or incorporated by reference, utilized for soliciting sealed bids.

Professional services means services, the value of which is substantially measured by the professional competence of the person performing them, and which are not susceptible to realistic competition by cost of services alone. Professional services shall include, but not be limited to, services customarily rendered by architects, engineers, surveyors, certified public accountants and financial, personnel, systems, planning and management consultants.

Proprietary item or service means any item or service essential to the day-to-day operation of the city government and when time is of the essence. Proprietary item or service also means any other item or service which, in the judgment of the city manager, is not readily available from more than one (1) supplier, manufacturer or person. Proprietary may, when so determined by the city manager, be applied to any other material and services that are in their nature unique and/or not readily subject to competition or whereby specifications cannot clearly be drawn or when time is of the essence.

Purchasing manager means the individual in charge of the central purchasing organization of the city or his authorized designee.

Request for proposal means all documents, whether attached or incorporated by reference, utilized for soliciting proposals.

Responsible bidder means a person who has the capability in all respects to perform fully the contract requirements and the integrity and reliability which will assure good faith performance.

Responsive bidder means a person who has submitted a bid which conforms in all material respects to the invitation to bid.

Specifications means any description of the physical or functional characteristics or of the nature of a supply or service. It may include a description of any requirement for inspecting, testing, or preparing a supply or service for delivery.

Supplies means and includes all supplies, materials and equipment.

Surplus property means surplus, obsolete, or scrap supplies. "Surplus supplies" means supplies which are capable of being used but are in excess of the normal operating requirements of the city. "Obsolete supplies" means those which may no longer be used for their intended purpose when their use has become economically impractical. "Scrap supplies" are those that can no longer be used either safely or economically for any purpose except for their possible salvage value.

Using agency is any department, agency, commission, bureau or other authorized unit in the city government using supplies or procuring contractual services as provided for in this division.

(Code 1953, § 2-41; Ord. No. C-89-144, § 1, 12-19-89)

Sec. 2-174. Central purchasing organization; purchasing manager; jurisdiction; operational procedures.

(a) *Establishment.* The city manager shall establish a centralized organization to perform the city's purchasing functions and to carry out the provisions of this division. This organizational unit will be headed by a purchasing manager appointed by the city manager in accordance with civil service regulations.

(b) *Authority; duties.* Authority and duties of the purchasing manager include, but are not limited to, actions necessary to enforce this division, as well as the following:

- (1) To purchase or supervise the purchasing of all supplies and services needed by the city.
- (2) To exercise direct supervision over the city's central stores and general supervision over all other inventories of supplies belonging to the city.
- (3) To have the authority to declare vendors who default their quotations irresponsible bidders and to disqualify them from receiving any business from the city for a stated period of time, subject to approval of the city manager.

(c) *Exceptions prohibited.* The authority of the purchasing manager to negotiate all purchases for all using agencies shall not be abridged by excepting any particular using agency, except as restricted by charter.

(d) *No jurisdiction over certain contracts, purchases and proper disposition.* Public works, public constructions and improvements and leases for all grounds, buildings, office or other space required by using agencies are not under the jurisdiction of the purchasing manager. The bidding, awarding of contracts, and execution of appropriate documents involving engineering projects, improvements, and construction are under the jurisdiction and responsibility of the city engineer. The negotiated procurement of all leases for real estate shall be under the jurisdiction and responsibility of the public works department, real estate section. The purchase of medical service, medically prescribed equipment or apparatus, professional services such as private investigators, expert witnesses and claim adjusting services, when utilized by the city in the settlement and administration of workers' compensation and liability claims, shall be exempt from the provisions and requirements of this division. Additionally, property recovered by the city in the settlement and administration of workers' compensation and liability claims shall be exempt from the provisions and requirements of this division.

(e) *Operational procedures.* Consistent with this division, and with the approval of the city manager, operational procedures relating to the execution of this division may be set forth in the city's purchasing manual.

(Code 1953, § 2-42(a)--(d); Ord. No. C-84-16, § 2, 3-7-84; Ord. No. C-87-26, § 2, 3-31-87; Ord. No. C-88-68, § 1, 9-20-88; Ord. No. C-89-144, § 1, 12-19-89)

Sec. 2-175. Unauthorized purchases.

Except as provided in this division, it shall be unlawful for any city officer or employee under the supervision of the city manager to order the purchase of any materials or supplies or make any contract for municipal materials or supplies or services within the purview of this division other than through the central purchasing organization, and the city shall not be bound by any purchase order or contract made contrary to the provisions of this division.

(Code 1953, § 2-42(e); Ord. No. C-84-16, § 2, 3-7-84; Ord. No. C-87-26, § 2, 3-31-87; Ord. No. C-88-68, § 1, 9-20-88)

Sec. 2-176. Encumbrance of funds.

(a) *Purchase orders.* No officer of the city shall, except in cases of emergency, issue any purchase order for delivery on a contract or open market purchase if it has been determined by the city's finance function that there is an insufficient unencumbered appropriation balance, in excess of all unpaid obligations, to defray the amount of such order in the accounts of the using agencies concerned.

(b) *Requisition-purchase authorization.* Except in cases of emergency, no request and process of any requisition-purchase authorization (RPA) for any order shall be made if there is insufficient unencumbered funds in the appropriate account to be charged, and the city's finance function shall not pay any RPA when there are insufficient unencumbered appropriation balances, in excess of all unpaid obligations, to defray the amount of such order in the accounts of the using agencies concerned.

(Code 1953, § 2-43; Ord. No. C-84-16, § 2, 3-7-84)

Sec. 2-177. Conflict of interest.

(a) *Purchases.* Any purchase order or contract within the purview of this division in which any officer or employee of the city is financially interested, directly or indirectly, shall be void unless such purchases are:

- (1) Made from the lowest bidder under sealed bids;
- (2) Made at current market prices under a rotation system, by which purchases are rotated among different suppliers;

(3) Emergency purchases made at current market prices and for an aggregate amount of not more than one hundred dollars (\$100.00); or

(4) For utility services, newspaper advertising, telephone or telegraph services, or similar services.

(b) *Gifts.* No officer or employee of the city or his spouse or minor child shall, at any time, accept any compensation, payment, or thing of value when such officer or employee knows or, with the exercise of reasonable care, should know that it was given to influence a vote or other action in which the officer or employee was expected to participate in his official capacity.

(Code 1953, § 2-44; Ord. No. C-84-16, § 2, 3-7-84)

Sec. 2-178. Competitive bidding.

All contracts of the city shall be awarded by competitive bidding except as otherwise provided for in this division.

(Code 1953, § 2-45; Ord. No. C-84-16, § 2, 3-7-84)

Sec. 2-179. Contracts for public works.

For the city to function well, it is necessary that contractual services for the construction of public improvements of suitable standards be retained as needed and that such services be retained at the best prices available, consistent with city standards of service and quality. When retaining such services, the city will not only attempt to follow sound and prudent business practices, but will also seek to promote the full and equitable economic participation of all segments of the community. With these objectives in mind, the city will use its best efforts to ensure that minority-owned and women-owned business enterprises have an equitable opportunity to participate in the procurement system applicable to public improvements. Whenever the expenditure of public funds is involved, no public improvements shall be authorized or commenced except as follows:

(1) Whenever the cost of the proposed public improvement is to be paid or repaid in whole or in part by special assessments levied against the property specially benefited, the proceedings shall be in accordance with the provisions of law.

(2) Whenever emergency public improvements are necessitated by destruction or damage to existing public works, and it is deemed necessary to make emergency repairs or improvements quickly, such public improvements or repairs may be authorized by the city manager whenever the estimated immediate expenditure does not exceed ten thousand dollars (\$10,000.00), and by the city commission by resolution when the estimated immediate expenditure exceeds ten thousand dollars (\$10,000.00), without the necessity of public notice, public competitive bid, and formal contract as provided in paragraph (5) of this section.

(3) Whenever the professional services of architects, engineers, surveyors, attorneys and the like are required in connection with a public improvement, contracts of employment may be entered into by the city commission with such persons, without the necessity of public competitive bids.

(4) Whenever material, equipment and supplies are needed in connection with the usual and customary operation of the city, the procedure for obtaining same shall be governed by this Code.

(5) In all other cases not specifically covered by paragraphs (1), (2), (3) or (4) of this section, public improvements exceeding ten thousand dollars (\$10,000.00) are not authorized except after public notice for formal bids by publication in one (1) issue of the official newspaper requiring sealed bids to be submitted upon a specified date, with publication not less than five (5) days before the date for receiving bids, and the city shall award the contract to the lowest and best responsible bidder, and enter into formal contract with such bidder in duplicate for the performance of the work in accordance with the plans and specifications for such improvements. For those public improvements not exceeding one thousand dollars (\$1,000.00), the city engineer shall have the authority to approve the lowest and best responsible bid; for

those public improvements not exceeding ten thousand dollars (\$10,000.00), the city manager or his authorized designee shall have the authority to approve the lowest and best responsible bid; for those public improvements exceeding ten thousand dollars (\$10,000.00), the city commission shall approve the lowest and best responsible bid by motion. A faithful performance bond, written by a corporate surety company holding a certificate of authority from the Secretary of the Treasury of the United States as acceptable sureties on federal bonds and executed and issued by a resident agent licensed by and having an office in the state representing such corporate surety, shall be required from the successful bidder in an amount equal to the contract price; provided, however, that at the discretion of the city commission, any person entering into a public works contract with the city which is for twenty-five thousand dollars (\$25,000.00) or less may be exempted from executing the aforementioned faithful performance bond. The faithful performance bond, contract, contract documents, qualifications of bidders, and plans and specifications shall be prepared and executed in accordance with requirements of the engineering department, approved by the city attorney.

(6) Notwithstanding any provision in this division to the contrary, the city manager shall, upon securing specific approval of the city commission for each transaction, have the power on behalf of the city to purchase any personal property from any governmental agency, national or state, including any federal or state agency or branch of the federal or state government, or from any other municipal government, without public bidding, provided the city manager certifies to the city commission that the item or items of personal property are needed by this city and that the price or prices being paid, paid, or to be paid such other government or governmental agency are below the current market prices for such personal property.

(7) An informal public works contract shall be submitted in writing from a minimum of three (3) contractors with no public notification or time requirements or surety bond. For public improvements not exceeding one thousand dollars (\$1,000.00), the city engineer shall have the authority to approve the lowest and best responsible bid. For those public improvements not exceeding ten thousand dollars (\$10,000.00), the city manager or his authorized designee shall have the authority to approve the lowest and best responsible bid.

(Laws of Fla. Ch. 57-1322, § 160; Laws of Fla. Ch. 59-1281, § 14; Laws of Fla. Ch. 61-2166, § 26; Laws of Fla. Ch. 67-1384, § 26; Laws of Fla. Ch. 73-465, § 5; Ord. No. C-78-27, § 1, 2-21-78; Ord. No. C-80-114, § 1, 12-23-80; Ord. No. C-86-69, § 2, 9-16-86)

Editor's note--Laws of Florida chapter 57-1322 is the former city charter. To the extent not inconsistent with the current charter, section 11.01 of the current charter converted the former city charter into an ordinance.

State law reference(s)--Consultants' Competitive Negotiation Act, F.S. § 287.055.

Sec. 2-180. Formal bid procedure.

All supplies and services, except as otherwise provided in this division, when the estimated cost shall exceed ten thousand dollars (\$10,000.00), shall be purchased by written and sealed bids and awarded to the lowest and best responsible bidder, after due notice inviting proposals; provided, however, that the city purchasing manager shall have authority to waive formal bid procedures in cases where it deems it advisable to do so, under the terms and conditions provided for in section 2-181.

(1) *Notice inviting bids.* Invitations to bid shall be subject to the following:

a. *Newspaper.* The notice inviting bids shall be published once in at least one (1) official newspaper in the city and at least five (5) calendar days preceding the last day set for the receipt of proposals.

b. *Scope of notice.* The newspaper notice required in this section shall include a general description of the supplies to be purchased or sold and shall state where bid blanks and specifications may be secured and the time and place for opening bids.

c. *Bidders list.* Sealed bids shall also be solicited from responsible prospective suppliers. Invitations sent to the vendors on the bidders list shall be limited to commodities that are similar in character and ordinarily handled by the trade group to which the invitations are sent.

d. *Bulletin board.* All pending purchases or sales shall also be advertised by a notice posted on a public bulletin board in the city hall.

(2) *Bid deposits and performance bonds.* When deemed necessary by the purchasing organization, bid deposits and performance bonds shall be prescribed in the invitation to bids. Unsuccessful bidders shall be entitled to a return of surety where the city has required such. A successful bidder shall forfeit any required surety upon failure on his part to enter into a contract after city approval or to meet other requirements as set forth in the invitation to bid.

(3) *Bid opening procedure.* The following procedure shall be followed in opening bids:

a. *Sealed.* Bids shall be submitted sealed to the agent and shall be identified as bids on the envelope.

b. *Opening.* Bids shall be opened in public at the time and place stated in the public notices.

c. *Tabulation.* A tabulation of all bids received shall be available for public inspection.

(4) *Award of contract.* The provisions of section 2-184 shall apply.

(5) *Rejection of bids.* All bids received shall be reported to the city commission, but the commission shall have the authority to reject all bids, parts of all bids, or all bids for any one (1) or more supplies or contractual services included in the proposed specifications when the public interest will be served thereby. In the event a bid does not meet specifications, such fact shall be pointed out to the commission. If the low responsive bid does not exceed twenty-five thousand dollars (\$25,000.00), the bid may be awarded or rejected under the provisions of section 2-184 without submission to the city commission for approval.

(6) *Correction or withdrawal of bids; cancellation of awards.* Correction before bid opening or withdrawal of inadvertently erroneous bids before or after bid opening or cancellation of awards or contracts based on bid mistakes may be permitted. Mistakes discovered before bid opening may be modified or withdrawn by written or telegraphic notice from the bidder and received in the office designated in the invitation for bids prior to the time set for bid opening. After bid opening, corrections or clarifications in bids shall be permitted only to the extent that the corrections do not materially affect the terms, conditions and specifications and may be subject to the approval of the city attorney.

(7) *Late bids.* Bids received and clocked in after the hour and date specified in the proposal form will not be opened but will be reported to the city commission, and only the commission will authorize the opening of a late bid after considering all the circumstances involved.

(8) *Contracts.* Supplies and services to be provided over a period of time may be a subject of a formal contract signed by the successful bidder, the city manager and by the city attorney.

(Code 1953, § 2-45.1; Ord. No. C-84-16, § 2, 3-7-84; Ord. No. C-89-85, § 1, 7-18-89; Ord. No. C-98-40, § 1, 7-21-98)

Charter reference(s)--Public notices, § 10.03.

Sec. 2-181. Waiver of formal bid requirements.

When the estimated cost of supplies and contractual services is twenty-five thousand dollars (\$25,000.00) or over, a contract for same may be awarded by the city commission to the lowest and best responsible bidder without formal contract, and, when requested, the commission may waive formal bidding procedures, under the following conditions:

(1) Notices shall be sent out inviting bids by mail to at least three (3) vendors believed to handle the product or service desired at least seven (7) days before the bids are to be received, such notices to specify the kind and quality of materials, supplies and contractual services desired, and shall make written certification of such facts.

- (2) In addition, when time is of the essence, bids may be solicited by mail or telephone from prospective vendors, and the notice of invitation for bid shall be posted on the bulletin board at the city hall.
- (3) Records of all bids submitted shall be kept and reported to the commission and shall be open for public inspection.
- (4) All provisions of this division pertaining to bidders lists, bid deposits and bid opening procedures, where not in conflict with this section, shall be applicable.
- (5) The commission shall waive formal bid procedures and award the contract to the lowest and best responsible bidder at a regular meeting by motion, which shall be recorded in the minutes of the meeting.
- (6) The provisions of section 2-184 shall apply in awarding contracts under this section.
- (7) The city manager may procure, without competitive bids, supplies and services which are the subject of contracts with the state as set forth in Florida Statutes or are the subject of contracts with the U.S. Federal General Services Administration.
- (8) The city may buy from another governmental entity contracts or bids whereby such contract or formal bid followed formal bid procedures of sealed written bids, public opening, and legal advertising.
- (9) The city manager may authorize the purchasing manager (or a designated representative who is approved by the city manager) to purchase surplus property as donated by the state department of general services, division of surplus property, as authorized by Florida Statutes. Supplies costing in excess of ten thousand dollars (\$10,000.00) shall be reported to the city commission at the next meeting following any purchase, listing item(s) and cost of supplies purchased.
- (10) Bids received after the hour and date specified in the proposal form will not be opened. Only the city manager will authorize the opening of a late bid when so requested by the bidder and after considering all the circumstances involved.

(Code 1953, § 2-45.2; Ord. No. C-84-16, § 2, 3-7-84; Ord. No. C-87-26, § 3, 3-31-87; Ord. No. C-89-85, § 1, 7-18-89; Ord. No. C-98-40, § 2, 7-21-98)

Charter reference(s)--Public notices, § 10.03.

Sec. 2-182. Purchase of supplies and contractual services estimated to cost between one thousand dollars and twenty-five thousand dollars.

Where the furnishing of supplies and contractual services is estimated to cost between one thousand dollars (\$1,000.00) and twenty-five thousand dollars (\$25,000.00), such purchases may be made upon approval of the city manager except when only a single bid is received in response to a city requests for bids in an amount greater than ten thousand dollars (\$10,000.00), in which case such purchase shall be subject to the approval of the city commission. Whenever the total cost does not exceed twenty-five thousand dollars (\$25,000.00) and it is deemed necessary and proper to do so, except in case of emergency, or as otherwise provided herein, three (3) competitive bids shall be sought by mail or by telephone, and the bid of the lowest responsible bidder may be accepted by the city manager without commission approval. The following purchases, however, may be made upon approval of the city manager when the costs exceeds one thousand dollars (\$1,000.00), without bid and on a nonemergency basis, when such purchases are deemed to be made for the best interests of the city:

- (1) *Test items.* Test items may be purchased without bid when it is probable that such purchases will result in formulating future bid specifications for such items or will result in the determination that such are proprietary items.
- (2) *Odd lots and closed-out materials.* Odd lots and closed-out materials may be purchased without bid when such purchases are offered at considerable savings to the city.

(3) *Photocopy or office-type machine rentals or purchases.* Photocopy or office-type machine rentals or purchases may be made without bid upon recommendation of the central services organization after conducting extensive study and trial usage of a minimum of three (3) such machines.

(4) *Maintenance service of equipment.* When considered to be in the best interest of the city, maintenance service of office-type equipment may be made without bid, and on other type equipment without bid upon the recommendation of the using department, when services to be performed are by the equipment manufacturer, manufacturer's service representative, a distributor of the manufacturer's equipment, or when at least three (3) responsible services have been tested.

(5) *Land surveys, land appraisals, abstracts of title and title searches.* Land surveys, land appraisals, abstracts of title and title searches may be purchased without bid and may be made on a rotation basis between at least three (3) reliable sources, subject to the provisions of Florida's Consultant's Competitive Negotiation Act and section 2-194 of this Code.

(6) *Contracts.* Supplies and services to be provided over a period of time not to exceed one (1) year may be a subject of a contract when approved by the city manager.

(7) *Late bids.* Bids received after the hour and date specified in the proposal form will not be opened. Only the city manager will authorize the opening of a late bid when so requested by the bidder and after considering all the circumstances involved.

(Code 1953, § 2-45.3; Ord. No. C-84-16, § 2, 3-7-84; Ord. No. C-85-27, § 1, 3-5-85; Ord. No. C-89-85, § 1, 7-18-89; Ord. No. C-98-40, § 3, 7-21-98)

Sec. 2-183. Small purchases.

Purchases of supplies and services may be made when the cost does not exceed one thousand dollars (\$1,000.00) without competitive bids by the city manager, when it best serves the interests of the city.

(Code 1953, § 2-45.4; Ord. No. C-89-85, § 1, 7-18-89)

Sec. 2-184. Awards generally.

Awards of contracts and/or purchases shall be to the lowest most responsible bidder. In determining the lowest responsible bidder and that purchase or contract that will best serve the interests of the city, the commission, city manager, and purchasing manager, as appropriate, shall consider, but shall not be limited to, in addition to price, the following:

- (1) The ability, capacity and skill of the bidder to perform under the terms of the bid documents.
- (2) Whether the bidder can perform the contract or provide the materials or service promptly, or within the time specified, without delay or interference.
- (3) The character, integrity, reputation, judgment, experience and efficiency of the bidder.
- (4) The quality of performance of previous contracts and the providing of materials and/or services.
- (5) The previous and existing compliance by the bidder with laws and ordinances relating to the contract, or the providing of materials or services.
- (6) The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the materials or services.
- (7) The quality, availability and adaptability of the supplies, equipment, or contractual services to the particular use required.
- (8) The ability of the bidder to provide future maintenance and service for the use of the subject of the contract.

- (9) The number and scope of conditions attached to the bid.

(Code 1953, § 2-45.5; Ord. No. C-84-16, § 2, 3-7-84; Ord. No. C-87-26, § 4, 3-31-87)

Sec. 2-185. Award to other than low responsible bidder.

When the award is not given to the low responsible bidder, a statement of the reason for placing the order elsewhere shall be prepared and made a part of the record when bids are taken by formal method.

(Code 1953, § 2-45.6; Ord. No. C-84-16, § 2, 3-7-84)

Sec. 2-186. Tie bids.

If all bids received are for the same total amount or unit price, quality and service being equal, the contract or purchase shall be awarded to a local responsible bidder. "Local bidder" is defined to be a bidder whose business office is located within the city. If there is a tie bid among local bidders, or among nonlocal bidders, the commission shall determine which bid shall be selected when bids exceed twenty-five thousand dollars (\$25,000.00). For tie bids of twenty-five thousand dollars (\$25,000.00) or less, the city manager shall determine which bid shall be selected.

(Code 1953, § 2-45.7; Ord. No. C-84-16, § 2, 3-7-84; Ord. No. C-89-85, § 1, 7-18-89; Ord. No. C-98-40, § 4, 7-21-98)

Sec. 2-187. Performance bonds.

A performance bond with a surety company authorized to do business in the state may be required by the city commission in any case where the contract price exceeds twenty-five thousand dollars (\$25,000.00). The city commission shall have authority to require a performance bond, if it so desires, for any contract or to waive the requirement of a performance bond as to any contract.

(Code 1953, § 2-45.8; Ord. No. C-84-16, § 2, 3-7-84; Ord. No. C-89-85, § 1, 7-18-89; Ord. No. C-98-40, § 5, 7-21-98)

Sec. 2-188. Prohibition against subdivision.

No contract or purchase shall be subdivided to avoid the requirements of this division.

(Code 1953, § 2-45.9; Ord. No. C-84-16, § 2, 3-7-84)

Sec. 2-189. Proprietary purchases.

(a) The purchase of proprietary items, as defined in this article, may be made without the necessity of public bids. Such purchases shall require the approval of the city manager when the estimated cost of the item is between one thousand dollars (\$1,000.00) and ten thousand dollars (\$10,000.00) and if greater than ten thousand dollars (\$10,000.00), then the approval of the city commission is required.

(b) When a purchase of proprietary items exceeds ten thousand dollars (\$10,000.00) and is to be made by the use of grant funds, then the approval of the city manager shall be sufficient, if provisions of the grant are followed and the grantor of the funds approves the purchase.

(c) There are occasions when it is not to the advantage of the city to utilize sealed competitive bids or proposals for the purchase of certain goods or services or purchases from certain types of entities. These instances include purchases from other governmental or educational agencies or from non-profit organizations. When the city manager or the purchasing manager determines in writing that while competitive bids could be utilized, their use may not be in the best interest of the city or are impractical, informal or formal bids will not be required but instead the price and scope of services if applicable will be negotiated. Such determinations may include the purchase of the following goods or services or purchases from the following entities:

- (1) Work of art for public places;

- (2) Copyrighted materials or patented works or items including by not limited to books, maps, periodical, testing or instructional materials and software;
- (3) Entertainers, teachers, specialized instructors;
- (4) Purchasers from another governmental or educational entity or non-profit agency;
- (5) Purchase of items for resale;
- (6) City sponsored events at hotels, motels, restaurants.

This exemption from the normal bidding process does not mean that the city will make awards without an investigation of the pricing of products or services being purchased in order to determine that the city is obtaining the product or service at its lowest price and from a responsible supplier. Such purchases will require the approval of the city commission except those under ten thousand dollars (\$10,000.00) which may be approved by the city manager or his designee. For purposes of this section "impractical" shall mean not subject to competition because the providers of the service or product are students, volunteers or persons in a training program.

(Code 1953, § 2-46; Ord. No. C-84-16, § 2, 3-7-84; Ord. No. C-89-85, § 1, 7-18-89; Ord. No. C-94-11, § 1, 4-5-94)

Sec. 2-190. Emergency purchases.

(a) *Natural disasters.* In the event of or in anticipation of, a natural disaster, including but not limited to, a hurricane, tornado, flood, fire, riot or other act of God, the city manager is authorized to declare a state of emergency for purchasing purposes for a period of time not to exceed seven (7) days. The city commission may extend the emergency period as circumstances require in seven-day increments. Nothing in this section shall be construed to limit the authority of the city commission to declare or terminate a state of emergency and take any action authorized by law when sitting in a regular or special meeting. During the declared emergency period, all normal purchasing procedures and requirements shall be suspended and the following procedures shall apply:

(1) *By city manager.* The city manager shall be empowered to authorize the purchasing manager to secure any needed emergency supplies, materials, equipment or services using the most efficient and effective procurement methods in each procurement, as determined by the purchasing manager. If the cost of any purchase exceeds the current formal bid threshold, a full report of such purchase shall be made to the city commission at the earliest available commission meeting.

(2) *By head of department.* With the approval of the city manager, or purchasing manager if so designated by the city manager, the head of any department may purchase any needed emergency supplies, materials, equipment or services where, using the most effective procurement methods in each procurement, as determined by the department head, which made the emergency purchases necessary. If the cost of any purchase exceeds the current formal bid threshold, a full report of such purchase shall be made to the city commission at the earliest available commission meeting.

(3) *Other municipalities.* The city manager, or purchasing manager if so designated by the city manager, may request another municipality to purchase for the city any needed emergency supplies, materials, or equipment or the city may purchase from another municipality any needed emergency supplies, materials or equipment such municipality has available. If the cost of any purchase exceeds the current formal bid threshold, a full report of such purchase shall be made to the city commission at the earliest available commission meeting.

(b) *All other emergencies.* In the event of an emergency, other than those mentioned in paragraph (a) above, such as an equipment failure, catastrophic damage to city property, or other similar unexpected event, all normal purchasing procedures and requirements directly related to such emergency shall be suspended and the following procedures shall apply:

(1) *By head of department.* With the approval of the city manager or purchasing manager, if so designated by the city manager, the head of any department may purchase any required emergency supplies, materials, equipment or services. The head of such department shall send to the purchasing manager a requisition and copy of the delivery record together with a full written report of the circumstances of the emergency. If the cost exceeds the current formal bid threshold, a full report of each such purchase shall be made to the city commission at the earliest available commission meeting.

(Code 1953, § 2-47; Ord. No. C-84-16, § 2, 3-7-84; Ord. No. C-87-26, § 5, 3-31-87; Ord. No. C-89-85, § 1, 7-18-89; Ord. No. C-91-46, § 1, 7-23-91; Ord. No. C-00-21, § 1, 4-18-00)

Sec. 2-191. Negotiations.

(a) When only one (1) bid is received under competitive bidding, or the purchase is deemed to be proprietary, negotiation is permitted in order to obtain a fair and reasonable price, or if the low responsive bid is considered by the purchasing manager to be high, he shall have the authority to negotiate a lower price with the low responsible bidder.

(b) The city manager may negotiate for used equipment when deemed to be in the best interest of the city, and if the cost exceeds twenty-five thousand dollars (\$25,000.00), the approval of the city commission shall be obtained.

(Code 1953, § 2-48; Ord. No. C-84-16, § 2, 3-7-84; Ord. No. C-87-26, § 6, 3-31-87; Ord. No. C-89-85, § 1, 7-18-89; Ord. No. C-98-40, § 6, 7-21-98)

Sec. 2-192. Petty cash.

Purchases may be made from the city's fund of petty cash by using agencies for incidentals or emergencies, with the approval of the city manager.

(Code 1953, § 2-49; Ord. No. C-84-16, § 2, 3-7-84)

Sec. 2-193. Professional services contracts.

All contracts for performance of professional services for the city which exceed ten thousand dollars (\$10,000.00), except for contracts for the performance of legal services, shall be awarded in accordance with the provisions of sections 2-182 and 2-194 of this Code. All contracts for performance of professional services which do not exceed ten thousand dollars (\$10,000.00) may be approved by the city manager without competitive bidding or negotiation. If the city has an existing contract for the performance of such services, the contract may be renewed annually, provided that the services rendered have been satisfactory, after a recommendation to that effect has been made by city staff and approved by the city commission.

(Code 1953, § 2-50; Ord. No. C-84-16, § 2, 3-7-84; Ord. No. C-85-27, § 2, 3-5-85; Ord. No. C-86-1, § 1, 1-21-86; Ord. No. C-89-85, § 1, 7-18-89)

Sec. 2-194. Competitive negotiations.

(a) *Conditions for use.* When the city manager determines that the use of competitive sealed bidding is either not practicable or not advantageous to the city, an award or a contract may be entered into by use of the competitive sealed proposals method.

(b) *Request for proposals.* Proposals shall be solicited through a request for proposals.

(c) *Public notice.* Adequate public notice of the request for proposals shall be given in the same manner as provided in section 2-180.

(d) *Quotation of fees.* The city shall also require interested persons to submit a quotation of their proposed fees or prices for the performance or delivery of their proposed services or goods, unless such interested persons are prohibited by law.

(e) *Evaluation factors.* The request for proposals shall state the relative importance of price and other evaluation factors.

(f) *Discussion with responsible offerors and revisions to proposals.* As provided in the request for proposals, discussions shall be conducted with at least the three (3) best qualified responsible offerors who submit proposals who are determined to be reasonably susceptible of being selected for award for the purpose of clarification to assure full understanding of, and conformance to, the solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals and such revisions may be permitted through negotiations after submissions and prior to award for the purpose of obtaining best and final offers.

(g) *Award.* Award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the city taking into consideration price and the evaluation factors set forth in the request for proposals. Approval of final award will be governed by the total estimated cost and provisions set forth in section 2-184. No other factors or criteria shall be used in the evaluation.

(Code 1953, § 2-51; Ord. No. C-84-16, § 2, 3-7-84)

Sec. 2-195. Purchase of products or services from the blind and other severely handicapped persons.

(a) Purchase of products or services from the blind and other severely handicapped persons shall be in accordance with F.S. §413.036.

(b) The provisions of F.S. §§ 413.032, 413.033, and 413.036 are hereby incorporated by reference in their entirety, when and where applicable, in order to provide that the city shall purchase products manufactured or services rendered by the blind and other severely handicapped persons when such products or services are available within a reasonable delivery time.

(Code 1953, § 2-52; Ord. No. C-84-16, § 2, 3-7-84)

Sec. 2-196. Inspection and testing.

The purchasing organization shall supervise the inspection procedure of all deliveries of supplies or services to determine their conformance with the specifications set forth in the order or the contract.

(1) *Inspection.* Deliveries made of supplies or goods shall be inspected under rules and regulations which the purchasing manager shall prescribe, and using agencies will ensure that the product or service conforms to the specifications set forth in the order or contract.

(2) *Tests.* The purchasing organization shall have the authority to require chemical and physical tests of samples to be submitted with bids and samples of deliveries which are necessary to determine their quality and conformance with the specifications. In the performance of such tests, laboratory facilities of any agency of the city government or of any outside laboratory may be used.

(Code 1953, § 2-54; Ord. No. C-84-16, § 2, 3-7-84; Ord. No. C-87-26, § 7, 3-31-87)

Sec. 2-197. Surplus supplies.

(a) *Generally.* Using agencies shall submit, at such times and in such form as prescribed, reports showing stocks of all supplies which are no longer used or which have become obsolete, worn out or scrapped. After review for use by other city using agencies, remaining surplus property shall be disposed of in accordance with this section or as may be directed by the city commission.

(b) *Transfer.* Surplus stock may be transferred to other using agencies.

(c) *Sale.* Sales under this section shall be made to the highest responsible bidder and in conformance with competitive conditions or they may be exchanged for or traded in on new supplies. Sales of supplies not exceeding twenty-five thousand dollars (\$25,000.00) shall be approved by the city manager. Sales of supplies with a value in excess of twenty-five thousand dollars (\$25,000.00) shall be approved by the city commission.

(d) *Items of a unique or unusual nature.* Notwithstanding anything above to the contrary, any surplus property owned by the city and being of a unique nature or having a unique value as an antique or a collector's item may be sold upon such terms and conditions as determined by the city manager without the necessity of competitive bidding. A determination of such unique nature or value shall be made by the city manager prior to any sale.

(e) *Garage sales.* Notwithstanding anything above to the contrary, the city manager shall have the authority to sell equipment and materials that have become surplus to the needs of the city and which have an estimated unit value of less than two hundred fifty dollars (\$250.00) by means of a "garage sale" in lieu of competitive methods. "Garage sale" means the establishment of a unit sale price, the display of materials to the general public for a specified period of time at a specified place, which sale shall be advertised at least once in the official newspaper of the city.

(f) *Obsolete or surplus items.* Stock materials or items carried in the central stores of the city which have become obsolete or exceed the requirements of the city may be returned to the vendor for reasonable and fair credit, or exchanged with a vendor for similar goods if reasonable and fair credit is given the city for the items to be exchanged, less any reasonable charge which may be imposed by the vendor for restocking.

(g) *Sale or trade of surplus stock to another government entity.* Notwithstanding anything above to the contrary, the city manager shall have the authority to sell (for fair market value) or trade (for like value) to other governmental entities, without the necessity of competitive bidding, surplus supplies or equipment when the estimated value does not exceed twenty-five thousand dollars (\$25,000.00). Sales or trades of surplus supplies or equipment of a value in excess of twenty-five thousand dollars (\$25,000.00) shall be approved by the city commission.

(Code 1953, § 2-55; Ord. No. C-84-16, § 2, 3-7-84; Ord. No. C-98-40, § 7, 7-21-98)

Sec. 2-198. Cooperative purchasing.

The city manager shall have the authority to join with other units of government in cooperative purchasing plans when the best interest of the city would be served thereby.

(Code 1953, § 2-56; Ord. No. C-84-16, § 2, 3-7-84)

Sec. 2-199. Procedure for the purchase of insurance and insurance-related services.

The purchase of insurance and such insurance-related services as consulting, self-funding and claims administration shall be accomplished in the following manner:

(1) *Authority to bid or negotiate.* The city shall procure insurance or such insurance-related services as consulting, self-funding and claims administration, as may be needed from time to time, by either formal bid procedure or by the negotiation process established in this section. The method of the procurement of insurance or insurance-related services shall be on a competitive bid basis, except for those situations where the commission, after consideration of the conditions prevailing in the insurance market, finds that the negotiation process would be more favorable to the interests of the city.

(2) *Bidding.* Should the city commission or city manager direct the purchase of insurance or insurance-related services through bidding procedure, then, in that event, the bid procedure as specified in section 2-178 of this Code shall be followed.

(3) *Negotiation.* Should the city commission decide to purchase insurance or insurance-related services other than by bid procedure and through negotiation, then the following procedure should be followed:

- a. The city commission shall, by resolution, authorize the city manager to conduct negotiations for the purchase of insurance-related services.
 - b. Upon passage of the resolution aforementioned, the finance director or risk manager shall prepare and submit to the city manager the specifications for the insurance or insurance-related services to be purchased.
 - c. Notice of the city's intent to negotiate for the purchase of insurance or insurance-related services shall be published once in at least one (1) official paper in the city.
 - d. Specifications will be distributed to interested insurance companies or their appointed agents.
 - e. The city manager shall conduct negotiations with those interested insurance companies or through the appointed agent.
- (4) *Submission and evaluation of proposals.* As part of the negotiation process, those interested insurance companies shall submit proposals for furnishing the insurance or insurance-related services sought by the city and those proposals will be evaluated by the person, persons or committee so designated by the city manager.
- (5) *Purchase of insurance or insurance-related services.* The city manager shall submit recommendations and evaluations of the proposals submitted by the insurance companies with which negotiations were conducted and shall submit recommendations as to the award of a contract and reasons therefor to the city commission. The city commission shall, by resolution, award a contract to the insurance company which it determines shall best meet the needs of the city.
- (6) *Protest of award.* Objections to the award of a contract by the city commission must be filed in writing and must be received by the city manager not later than 9:00 a.m. on the second Monday following the award. Should any person file a protest to the award of the contract, the city commission shall consider such protest at its next regular meeting and no contract shall be finalized between the city and any insurance company until such protest has been considered by the city commission.
- (7) *Emergency purchase.* In the case of an apparent emergency which requires immediate purchase of insurance or insurance-related services, the city commission may waive the negotiating procedures established in this section and may award a contract for the purchase of insurance or insurance-related services after such investigation on and upon such terms and conditions as it deems to be in the best interest of the city.

(Code 1953, § 2-58; Ord. No. C-84-16, § 2, 3-7-84)